

[Federal Register: January 18, 1994]

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Part VII

Department of Agriculture

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7 CFR Part 25

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Department of Housing and Urban Development

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24 CFR Part 597

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**Designation of Empowerment Zones and Enterprise Communities; Interim Rules and Notices**

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 25

RIN 0503-AA09

**Designation of Rural Empowerment Zones and Enterprise Communities**

AGENCY: Office of the Secretary, USDA.

ACTION: Interim rule with request for comments.

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SUMMARY: This interim regulation implements that portion of subchapter C, part I (**Empowerment Zones, Enterprise Communities and Rural Development Investment Areas**) of title XIII of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66, approved August 10, 1993) dealing with the **designation of rural Empowerment Zones and Enterprise Communities**. Published elsewhere in this Federal Register is a companion regulation by the Department of Housing and Urban Development which implements their portion of title XIII of the Omnibus Budget Reconciliation Act of 1993. This rule authorizes the Secretary of Agriculture (USDA) to designate not more than three **rural Empowerment Zones** and not more than thirty **rural Enterprise Communities** based upon the effectiveness of the strategic plan submitted by an applicant and nominated by a State or States and local governments.

The purpose of this program is to empower **rural communities** and their residents to create jobs and opportunities to build for tomorrow as part of a Federal-State-local and private-sector partnership.

Businesses will be encouraged to invest and create jobs in distressed areas, and comprehensive local strategic plans are to be adopted and implemented, encouraging entrepreneurship, furthering local self-development and assisting in the revitalization of these areas.

DATES: Interim rule effective January 18, 1994. Written comments must be submitted on or before February 17, 1994.

ADDRESSES: Comments on Rule: Interested persons are invited to submit comments regarding this interim rule to the Office of the Chief, Regulation Analysis and Control Branch, Farmers Home Administration, Department of Agriculture, room 6348-S, 14th Street and Independence Avenue, SW., Washington, DC 20250. Communications should refer to the above CFR part and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

#### FOR FURTHER INFORMATION CONTACT:

Beverly C. Gillot, Strategy Development Staff, **Rural** Development Administration, Department of Agriculture, room 5405, 14th and Independence Ave, SW., Washington, DC 20250-3200, telephone 202-690-1045. (This is not a toll-free number), or by sending an Internet Mail message to: [info@ezec.usda.gov](mailto:info@ezec.usda.gov) to obtain information.

#### SUPPLEMENTARY INFORMATION:

##### Paperwork Reduction Act

The information collection requirements contained in this rule will be submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520). Because these requirements are identical to those being required by the Department of Housing and Urban Development in their companion rule being published elsewhere in this Federal Register, clearance was sought through HUD for both agencies. The application was approved for use under OMB Number 2506-0148.

##### I. Background

The **Empowerment Zones** program confers upon **rural** distressed American **communities** the opportunity to take effective action to

create

jobs and opportunities. The program combines tax benefits with substantial investment of Federal resources and enhanced coordination among Federal agencies.

All **communities** which complete the nomination process will be strengthened by it; gaining by taking stock of their assets and problems, by creating a vision of a better future, and by structuring a plan for achieving their vision. Local partnerships among community residents, businesses, financial institutions, service providers, neighborhood associations and State and local governments will be formed or strengthened by going through the application process. **Communities** will be afforded an opportunity to work with these partners in the creation and implementation of a community-based strategic plan.

**Communities** that are not designated as **Empowerment Zones** or **Enterprise Communities** are eligible for certain benefits. Under a separate program directed by the Department of Housing and Urban Development, Community Development Corporations (CDCs) nominated by the locality, or the applicant for the **Empowerment Zone** or **Enterprise Community**, will be considered eligible for **designation** to receive tax preferred contributions from donors. HUD has committed to designating eight **rural** CDCs for this program. **Communities** with innovative visions for change will be considered for requested waivers of Federal program regulations, flexible use of existing program funds, and cooperation in meeting essential mandates, even if they do not receive a **designation** by the Secretary as an **Empowerment Zone** or **Enterprise Community**.

**Communities** that are designated as **Enterprise Communities** receive a number of benefits. **Enterprise Communities** are eligible for new Tax-Exempt Facilities Bonds for certain private business activities. States with designated **Communities** will receive **Empowerment Zone/Enterprise Community Social Service Block Grants (EZ/EC SSBG)** in the amount of approximately \$3 million for each **rural Enterprise Community** to pass through to each designated area for approved activities identified in the strategic plans. **Enterprise Communities** receive special consideration in competition for funding under numerous Federal programs, including the new National Service and Community Policing initiatives. The Federal Government will focus special attention on working cooperatively with designated **Enterprise Communities** to

overcome regulatory impediments, to permit flexible use of existing Federal funds, and to assist these **Communities** in meeting essential mandates.

**Communities** that are designated as **Empowerment Zones** receive all of the benefits provided to **Enterprise Communities**, in addition to other benefits. States with designated **Empowerment Zones** will receive **Empowerment Zone/Enterprise Community Social Service Block Grants** in the amount of \$40 million for each **rural Empowerment Zone**. Employer Wage Credits for **Empowerment Zone** residents are provided to qualified employers engaged in trade, business, or human service delivery in designated **Empowerment Zones**. Businesses are afforded an increased deduction under section 179 of the Internal Revenue Code for qualified investments.

The **rural** part of the program will be administered by USDA as a Federal-State-local-private partnership, with a minimum of red tape associated with the application process. Applicants must demonstrate the ability to design and implement an effective strategic plan for real opportunities for growth and revitalization, that deal with local problems in a comprehensive way, and must demonstrate the capacity or the commitment to carry out these plans. Development of an effective plan must also involve the participation of the community affected by the nomination of the **rural** area, and of the private sector, acting in concert with the State or States and local governments. The plan should

be developed in accordance with four key principles, which will also serve as the basis for the selection criteria that will be used to evaluate the plan. These key principles reflect the Secretary's intention that **Empowerment Zone** and **Enterprise Community** designations should be based on potential for successful economic and community revitalization as reflected in the strategic planning process, participants in the plan, and the quality of the plan. Poverty, unemployment, and other need factors are critical in determining eligibility for **Empowerment Zone** or **Enterprise Community** status, but play a less significant role in the selection process. The four key principles are:

(1) Economic opportunity, including job creation within the community and throughout the region, entrepreneurial initiatives, small business expansion, and training for jobs that offer upward mobility;

(2) Sustainable community development, to advance the creation of liveable and vibrant **communities** through comprehensive approaches that coordinate economic, physical, environmental, community and human

development;

(3) Community-based partnerships, involving participation of all segments of the community, including the political and governmental leadership, community groups, health and social service groups, environmental groups, religious organizations, the private and non-profit sectors, centers of learning, other community institutions, and individual citizens; and

(4) Strategic vision for change, which identifies what the community will become and a strategic map for revitalization. The vision should build on assests and coordinate a response to community needs in a comprehensive fashion. It should also set goals and performance benchmarks for measuring progress and establish a framework for evaluating and adjusting the revitalization plan.

State and local governments and economic development corporations that are state chartered may nominate distressed **rural** areas for **designation** as **Empowerment Zones** (which will also permit their consideration for **designation** as **Enterprise Communities**), or solely for **designation** as **Enterprise Communities**.

Title XIII of the Omnibus Reconciliation Act of 1993 included **Empowerment Zones** and **Enterprise Communities** as a new program.

## II. Program Description

### General

Pursuant to title XIII of the Omnibus Reconciliation Act of 1993, the Secretary of USDA may designate up to three **rural Empowerment Zones** and up to thirty **rural Enterprise Communities**.

### Eligibility

To be eligible for **designation** as **rural Empowerment Zone** or **Enterprise Community** an area must:

- (1) Have a maximum population of 30,000;
- (2) Be one of pervasive poverty, unemployment, and general distress;
- (3) Not exceed one thousand square miles in total land area:
- (4) Demonstrate a poverty rate that is not less than:
  - (a) 20 percent in each census tract or census block numbering area (BNA);

(b) 25 percent in 90 percent of the population census tracts and BNAs within the nominated area;

(c) 35 percent for at least 50 percent of the population census tracts and BNAs within the nominated area;

(5) Be located entirely within no more than three contiguous States; if it is located in more than one State, the area must have one continuous boundary; if located in only one State, the area may consist of no more than three noncontiguous parcels;

(6) If the nominated area consists of noncontiguous parcels, each must independently meet the three poverty requirements;

(7) Be located entirely within the jurisdiction of the unit or units of general local government making the nomination;

(8) Not include any portion of a census-defined central business district unless the poverty rate for each population census tract is at least 35 percent for an **Empowerment** Zone and 30 percent for an **Enterprise** Community; and

(9) Not include any portion of an Indian reservation.

## Nomination Process

The law requires that areas be nominated by one or more local governments and the State(s) in which a nominated **rural** area is located. Nominations can be considered for **designation** only if:

(1) The area meets the eligibility requirements set forth in these rules;

(2) The area is within the jurisdiction of the nominating local government(s) and the State(s);

(3) The local government(s) and State(s) provide assurances that the required strategic plan submitted by the applicant will be implemented;

(4) All information furnished by the nominating local government (s) and State(s) is determined by the Secretary of USDA to be reasonably accurate;

(5) The local government(s) and State(s) certify that no portion of a nominated **rural** area is already in an **Empowerment** Zone or **Enterprise** Community or in an area otherwise nominated for **designation**; and

(6) The local government(s) and State(s) certify that they possess the legal authority to make the nomination.

The nomination must be accompanied by an application for **designation** including a strategic plan, which:

- (1) Indicates and briefly describes the specific groups, organizations and individuals participating in the development of the plan, and describes the history of these groups in the community;
- (2) Explains how participants were selected and provides evidence that the participants, taken as a whole, are broadly representative of the racial, cultural and economic diversity of the community;
- (3) Describes the role of the participants in the creation and development of the plan and indicates how they will participate in its implementation;
- (4) Identifies two or three topics addressed in the plan that caused the most serious disagreements among participants and describes how those disagreements were resolved;
- (5) Explains how the community participated in choosing the area to be nominated and why the area was nominated;
- (6) Provides evidence that key participants have the capacity or how they will develop the capacity to implement the plan;
- (7) Provides a brief explanation of the community's vision for revitalizing the area;
- (8) Explains how the vision creates economic opportunity, encourages self-sufficiency and promotes sustainable community development;
- (9) Identifies key needs of the area and the barriers that restrict the community from achieving such goals, including a description of poverty and general distress, barriers to economic opportunity and development and barriers to human development;
- (10) Discusses how the vision is related to the assets and capacities of the area and its surroundings; and
- (11) Describes the ways in which the community's approaches to economic development, social/human services, transportation, housing, sustainable community development, public safety, drug abuse prevention, and educational and environmental concerns will be addressed in a coordinated fashion.

The strategic plan must identify how government resources will be used to support the plan. Specifically, the plan must indicate:

- (1) How Social Service Block Grant funds for designated **Zones** and **Communities**, tax benefits for designated **Zones** and **Communities**, State and local resources, existing Federal resources available to the locality and additional Federal resources believed necessary to implement the strategic plan will be utilized within the **Empowerment**



Zone or **Enterprise** Community;

(2) The level of commitment necessary to ensure that these resources will be available to the area upon **designation**; and

(3) The Federal resources being applied for or for which applications are planned.

The plan must identify private resources committed to its implementation, including:

(1) Private resources and support, including assistance from business, non-profit organizations and foundations, that are available to be leveraged with public resources; and

(2) Assurances that these resources will be made available to the area upon **designation**.

The plan must address changes needed in Federal rules and regulations necessary to implement the plan, including:

(1) Specific paperwork or other Federal program requirements that need to be altered to permit effective implementation of the strategic plan; and

(2) Specific regulatory and other impediments to implementing the strategic plan for which waivers are requested, with appropriate citations and an indication whether waivers can be accomplished administratively or require statutory changes.

The plan must demonstrate how State and local governments will reinvent themselves to help implement the plan, by:

(1) Identifying the changes that will be made in State and local organizations, processes and procedures, including laws and ordinances,

to facilitate implementation of the plan; and

(2) Explaining how different agencies in State and local governments will work together in new responsive ways to implement the strategic plan.

The plan must provide details as to the manner in which the plan will be implemented and indicate what benchmarks will be used to measure progress, by:

(1) Identifying the specific tasks necessary to implement the plan;

(2) Describing the partnerships that will be established to carry out the plan;

(3) Explaining how the strategic plan will be regularly revised to reflect new information and opportunities; and

(4) Identifying the baselines, benchmarks and goals that will be used in evaluating performance in implementing the plan.

### III. Justification for Interim Rule

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. However, exemptions are permitted where an agency finds, for good cause, that compliance would be impracticable, unnecessary, or contrary to public interest. The Department finds that good cause exists to publish this rule for effect without first soliciting public comment, in that prior public comment would be contrary to the public interest. The statute requires that **communities** prepare a comprehensive strategic plan to submit their applications. For many **communities**, such planning can take up to 5 months. Several additional months will be required to evaluate the applications and make designations. Section 1391(c) of the legislation requires that designations be made only after 1993 and before 1996. Given the statutory mandate to make all designations within a two-year time period, the extra time required to publish a proposed rule for a 60-day comment period before development of a final rule for effect would be contrary to congressional intent and the purpose of the legislation. The longer time period would unduly postpone an economic recovery for those **communities** and their residents for which this program is intended. Further, the Department finds that good cause exists in that prior public comment is unnecessary because the legislation being implemented by this rule is very prescriptive, with little room for discretion on the part of the Secretary.

The Department is interested, however, in the public reaction to the rule, and invites the public to comment. The Department is limiting the comment period to 30 days to permit adequate time for review of public comments and development of a final rule.

#### IV. Notice

USDA is simultaneously publishing in this issue of the Federal Register a Notice Inviting Applications that contains more specific guidance on submission deadlines and the process of submission of applications.

#### V. Other Matters

## National Environmental Policy Act

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ``Environmental Program.'' It is the determination of USDA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

## Executive Order 12866, Regulatory Planning and Review

This rule was reviewed and approved by the Office of Management and Review as a significant rule, as that term is defined in Executive Order 12866, which was signed by the President on September 30, 1993. The economic analysis required by Executive Order 12866 will be retained in the public file with the Department's Rule Docket Clerk.

## Regulatory Flexibility Act

The Secretary, in accordance with The Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Act is intended to encourage Federal agencies to utilize innovative administrative procedures in dealing with individuals, small businesses, small organizations, and small governmental bodies that would otherwise be unnecessarily adversely affected by Federal regulations. To the extent that this rule affects those entities, its purpose is to reduce any disproportionate burden by providing for the waiver of regulations and by affording other incentives directed toward a positive economic impact. Therefore, no regulatory flexibility analysis under the Act is necessary.

## Executive Order 12611, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12611, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between

the  
Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. The purpose of  
this rule is to provide a cooperative atmosphere between the Federal government and the States and local governments, and to reduce any regulatory burden imposed by the Federal government that impedes the ability of State and local governments to solve pressing economic, social, and physical problems in their **communities**.

## List of Subjects in 7 CFR Part 25

Community development, **Empowerment zones**, **Enterprise communities**, Economic development, Housing, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

In accordance with the reasons set out in the preamble, title 7, subtitle A, part 25 of the Code of Federal Regulations is added as follows:

1. Title 7, subtitle A is amended by adding a new part 25 consisting only of subparts A through F at this time.

## PART 25--**RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES**

Sec.

### Subpart A--General Provisions

- 25.1 Applicability and scope.
- 25.2 Objective and purpose.
- 25.3 Definitions.
- 25.4 Secretarial review and **designation**.
- 25.5 Waivers.

### Subpart B--Area Requirements

- 25.100 Eligibility requirements and data usage.
- 25.101 Data utilized for eligibility determinations.
- 25.102 Tests of pervasive poverty, unemployment and general distress.
- 25.103 Poverty rate.

### Subpart C--Nomination Procedure

- 25.200 Nominations by State and local governments.
- 25.201 Evaluating the strategic plan.
- 25.202 Submission of nominations for **designation**.

#### Subpart D--**Designation** Process

- 25.300 USDA action and review of applications.
- 25.301 Selection factors for **designation** of nominated **rural** areas.
- 25.302 Number of **Rural Empowerment Zones** and **Enterprise Communities**.

#### Subpart E--Post-**Designation** Requirements

- 25.400 Reporting.
- 25.401 Periodic performance reviews.
- 25.402 Validation of **designation**.
- 25.403 Revocation of **designation**.

#### Subpart F--Special Rules

- 25.500 Indian reservations.
- 25.501 Governments.
- 25.502 Nominations by economic development corporations.
- 25.503 Use of census data.
- 25.504 **Rural** areas.

Authority: 5 U.S.C. 301; 7 U.S.C. 1989 (a) I; 42 U.S.C. 1480.

#### Subpart A--General Provisions

##### Sec. 25.1 Applicability and scope.

(a) Applicability. This part establishes policies and procedures applicable to **rural Empowerment Zones** and **Enterprise Communities**, authorized under the Omnibus Budget Reconciliation Act of 1993, title XIII, subchapter C, part I (Pub. L. 103-66, approved August 10, 1993), which amended the Internal Revenue Code by adding a new subchapter U, relating to the **designation** and treatment of **Empowerment Zones** and **Enterprise Communities**.

(b) Scope. This part contains provisions relating to area requirements, the nomination process for **rural Empowerment Zones** and

**rural Enterprise Communities**, and the **designation** of these **Zones** and **Communities** by USDA. Provisions dealing with the nominations and **designation** of urban **Empowerment Zones** and **Enterprise Communities** are promulgated by the United States Department of Housing and Urban Development (HUD). USDA and HUD will consult in all cases in which nominated areas possess both **rural** and urban characteristics, and will utilize a flexible approach in determining the appropriate **designation**.

## Sec. 25.2 Objective and purpose.

The purpose of this part is to provide for the establishment of **Empowerment Zones** and **Enterprise Communities** in **rural** areas, to stimulate the creation of new jobs, particularly for the disadvantaged and long-term unemployed, and to promote revitalization of economically

distressed areas, primarily by providing or encouraging:

- (a) Coordination of economic, human, community, and physical development plans and related activities at the local level;
- (b) Local partnerships fully involving affected **communities** and local institutions and organizations in developing and implementing a strategic plan for any nominated **rural Empowerment Zone** or **Enterprise Community**;
- (c) Tax incentives and credits; and
- (d) **Empowerment Zone/Enterprise Community Social Service Block Grant** (EZ/EC SSBG) funds.

## Sec. 25.3 Definitions.

As used in this part--Applicant means the lead entity that has prepared and will implement the community's strategic plan, pursuant to the provisions of Sec. 25.200(c) of this part, for comprehensive economic, human, community, and physical development within the area; such an entity may include, but is not limited to, state governments, local governments, regional planning agencies, non-profit organizations, community-based organizations, or a partnership of community members and other entities.

**Designation** means the process by which the Secretary designates **rural** areas as **Empowerment Zones** or **Enterprise Communities** eligible for tax incentives and credits established by subchapter U of the Internal

Revenue Code (26 U.S.C. 1391 et seq.), EZ/EC Social Service Block Grants as established by the Department of Health and Human Services, and for special consideration for programs of Federal assistance.

**Empowerment** Zone means a **rural** area so designated by the Secretary pursuant to this part. Up to three such **Zones** may be designated.

**Enterprise** Community means a **rural** area so designated by the Secretary pursuant to this part. Up to 30 such **Communities** may be designated.

Indian reservation means a reservation as defined in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)) or section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

Local government means any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and any combination of these political subdivisions which is recognized by the Secretary.

Nominated area means an area which is nominated by one or more local governments and the State or States in which it is located for **designation** pursuant to this part.

Population census tract means a census tract, or, if census tracts are not defined for the area, a block numbering area.

Poverty means the number of persons listed as being in poverty in the 1990 Census.

Revocation of **designation** means the process by which the Secretary may revoke the **designation** of an area as an **Empowerment** Zone or **Enterprise** Community pursuant to Sec. 25.403 of this part.

**Rural** area means any area defined pursuant to Sec. 25.504 of this part.

Secretary means the Secretary of Agriculture.

State means any State in the United States.

Strategic plan means a strategy developed by the applicant, with the participation and commitment of local governments, State government(s), private sector, community members and others, pursuant to the provisions of Sec. 25.200(c) of this part. The plan must include written commitments from the local governments and State(s) that they will adhere to the strategy.

USDA means the U.S. Department of Agriculture.

## Sec. 25.4 Secretarial review and **designation**.

(a) **Designation**. The Secretary will review applications for the

**designation** of nominated **rural** areas to determine the effectiveness of the strategic plans submitted by applicants in accordance with Sec. 25.200 of this part. The Secretary will designate up to three **rural Empowerment Zones** and up to 30 **rural Enterprise Communities**.

(b) Period of **designation**. The **designation** of a **rural** area as an **Empowerment** Zone or **Enterprise** Community shall remain in full effect during the period beginning on the date of **designation** and ending on the earliest of:

(1) The close of the tenth calendar year beginning on or after the date of **designation**;

(2) The termination date designated by the State and local governments in their application for nomination; or

(3) The date the Secretary revokes or modifies the **designation**, in accordance with Sec. 25.402 or Sec. 25.403 of this part.

## Sec. 25.5 Waivers.

The Secretary may waive any provision of this part in any particular case subject only to statutory limitations, for good cause, where it is determined that application of the requirement would produce a result adverse to the purpose and objectives of this part.

## Subpart B--Area Requirements

### Sec. 25.100 Eligibility requirements and data usage.

Eligibility criteria. A nominated **rural** area may be eligible for **designation** pursuant to this part only if the area:

- (a) Has a maximum population of 30,000;
- (b) Is one of pervasive poverty, unemployment, and general distress, as described in Sec. 25.102 of this part;
- (c) Does not exceed one thousand square miles in total land area;
- (d) Be located entirely within no more than three contiguous States; if it is located in more than one State, the area must have one continuous boundary; if located in only one State, the area may consist of up to three noncontiguous parcels;
- (e) Is located entirely within the jurisdiction of the unit or units of general local government making the nomination;
- (f) Does not include any portion of a central business district,



as

this term is used in the most recent Census of Retail Trade, unless the individual poverty rate for each population census tract in the district is not less than 35 percent for an **Empowerment** Zone and 30 percent for an **Enterprise** Community; and

(g) Does not include any area within an Indian reservation.

#### Sec. 25.101 Data utilized for eligibility determinations.

(a) Source of data. The data to be employed in determining eligibility pursuant to the criteria described in Sec. 25.102 of this part shall be based on the 1990 Census, and from information published by the Bureau of the Census and the Bureau of Labor Statistics. The data shall be comparable in point or period of time and methodology employed.

(b) Use of statistics on boundaries. The boundary of a **rural** area nominated for **designation** as an **Empowerment** Zone or **Enterprise** Community must coincide with the boundaries of census tracts, or, where tracts are not defined, with block numbering areas.

#### Sec. 25.102 Tests of pervasive poverty, unemployment and general distress.

(a) Pervasive poverty. Conditions of poverty must be reasonably distributed throughout the entire nominated area. The degree of poverty shall be demonstrated by citing available statistics on low-income population and levels of public assistance. Poverty is demonstrated by poverty data from the 1990 census.

(b) Unemployment. The degree of unemployment shall be demonstrated by the provision of information on the number of persons unemployed, underemployed (those with only a seasonal or part-time job) or discouraged workers (those capable of working but who have dropped out of the labor market--hence are not counted as unemployed), increase in unemployment rate, job loss, plant or military base closing, or other relevant unemployment indicators having a direct effect on the nominated area.

(c) General distress. General distress shall be evidenced by describing adverse conditions within the nominated area other than

those of pervasive poverty and unemployment. Below average or decline in per capita income, earnings per worker, per capita property tax base, average years of school completed; outmigration and population decline from 1980-1990; and a high or rising incidence of crime, narcotics use, abandoned housing, deteriorated infrastructure, school dropouts and illiteracy are examples of appropriate indicators of general distress. The data and methods used to produce such indicators that are used to describe general distress must all be stated.

#### Sec. 25.103 Poverty rate.

(a) General. Eligibility of an area on the basis of poverty shall be established in accordance with the following criteria:

(1) In each census tract within a nominated area, the poverty rate shall be not less than 20 percent; and

(2) For at least 90 percent of the population census tracts within the nominated area, the poverty rate shall not be less than 25 percent;  
and

(3) For at least 50 percent of the population census tracts within the nominated area, the poverty rate shall be not less than 35 percent.

(b) Special rules relating to the determination of poverty rate.

(1) Census tracts with no population. Census tracts with no population shall be treated as having a poverty rate that meets the standard of paragraphs (a)(1) and ((a))(2) of this section, but shall be treated as having a zero poverty rate for purposes of applying paragraph (a)(3) of this section.

(2) Census tracts with populations of less than 2,000. A population census tract with a population of less than 2,000 shall be treated as having a poverty rate that meets the requirements of paragraphs (a)(1) and (a)(2) of this section if more than 75 percent of the tract is zoned for commercial or industrial use.

(3) Adjustment of poverty rates for **Enterprise Communities**. For **Enterprise Communities** only, the Secretary has the discretion to reduce

by 5 percentage points one of the following thresholds for not more than 10 percent of the census tracts, or, if fewer, five population census tracts in the nominated area:

(i) The 20 percent threshold in paragraph (a)(1) of this section;

(ii) The 25 percent threshold in paragraph (a)(2) of this section;

and

(iii) The 35 percent threshold in paragraph (a)(3) of this section;

Provided that, the Secretary may in the alternative reduce the 35 percent threshold by 10 percentage points for three population census tracts.

(4) Rounding up of percentages. In making the calculations required by this section, the Secretary shall round all fractional percentages of one-half percentage point or more up to the next highest whole percentage point figure.

(c) Noncontiguous areas. There can be no more than 3 noncontiguous areas if the nominated area is located within one state; noncontiguous areas are not allowed in the multistate areas. Each such parcel must separately meet the poverty criteria set forth in this section.

(d) Area not within census tracts. In the case of an area that does not have population census tracts, the block numbering area shall be used for purposes of determining poverty rates.

#### Subpart C--Nomination Procedure

#### Sec. 25.200 Nominations by State and local governments.

(a) Nomination criteria. One or more local governments and the State or States in which an area is located must nominate such area for

**designation** as an **Empowerment** Zone or **Enterprise** Community; if:

(1) The **rural** area meets the requirements for eligibility described

in Sec. 25.100 and Sec. 25.103 of this part;

(2) The **rural** area is entirely within the jurisdiction of the nominating State or States and local government(s); such governments must have the authority to nominate the area for **designation** and provide written assurances satisfactory to the Secretary that the strategic plan described in paragraph (c) of this section will be implemented;

(3) All information furnished by the nominating State(s) and local government(s) is determined by the Secretary to be reasonably accurate;

and

(4) The State(s) and local government(s) certify that no portion of

the area nominated is already included in an **Empowerment** Zone or **Enterprise** Community under this Act or in an area otherwise nominated to be designated under this section.

(b) Nomination for **designation**. No **rural** area may be considered for **designation** pursuant to subpart D of this part unless the application for **designation**:

- (1) Demonstrates that the nominated **rural** areas satisfies the eligibility criteria set forth at Sec. 25.100 of this part;
- (2) Includes a strategic plan, as described in paragraph (c) of this section; and
- (3) Includes such other information as may be required by USDA in a Notice Inviting Applications, to be published in the Federal Register.

(c) Strategic plan. Each application for **designation** must be accompanied by a strategic plan, which must be developed in accordance with four key principles that will be utilized to evaluate the plan. These key principles are:

- (1) Economic opportunity, including job creation within the community and throughout the region, entrepreneurial initiatives, small business expansion, and training for jobs that offer upward mobility;
- (2) Sustainable community development, to advance the creation of liveable and vibrant **communities** through comprehensive approaches that coordinate economic, physical, environmental, community and human development;
- (3) Community-based partnerships, involving the participation of all segments of the community, including the political and governmental leadership, community groups, health and social service groups, environmental groups, religious organizations, the private and non-profit sectors, centers of learning, and other community institutions and individual citizens; and
- (4) Strategic vision for change, which identifies what the community will become and a strategic map for revitalization. The vision should build on assets and coordinate a response to community needs in a comprehensive fashion. It should also set goals and performance benchmarks for measuring progress and establish a framework for evaluating and adjusting the revitalization plan.

(d) Elements of strategic plan. The strategic plan should:

- (1) Indicate and briefly describe the specific groups, organizations, and individuals participating in its production, and

describe the history of these groups in the community;

(2) Explain how participants were selected and provide evidence that the participants, taken as a whole, are broadly representative of the entire community;

(3) Describe the role of the participants in the creation and development of the plan and indicate how they will participate in its implementation;

(4) Identify two or three topics addressed in the plan that caused the most serious disagreements among participants and describe how those disagreements were resolved;

(5) Explain how the community participated in choosing the area to be nominated and why the area was nominated;

(6) Provide evidence that key participants have the capacity to implement the plan;

(7) Provide a brief explanation of the community's vision for revitalizing the area;

(8) Explain how the vision creates economic opportunity, encourage self-sufficiency and promotes community development;

(9) Identify key community goals and the barriers that restrict the

community from achieving these goals, including a description of poverty and general distress, barriers to economic opportunity and development, and barriers to human development;

(10) Discuss how the vision is related to the assets and needs of the area as well as to the surrounding community;

(11) Describe the ways in which the community's approaches to economic development, social/human services, transportation, housing, community development, public safety, drug abuse prevention and educational and environmental concerns will be addressed in a coordinated fashion; and explain how these linkages support the community's vision;

(12) Indicate how EZ/EC SSBG funds for the designated **Empowerment** Zone or **Enterprise** Community will be utilized.

(i) In doing so, the Strategic Plan shall provide the following information:

(A) A commitment by the applicant, as well as by the State government(s), that the EZ/EC SSBG funds will be used to supplement, not replace, other Federal or non-Federal funds for services or activities eligible under the SSBG program;

(B) A description of the entities that will administer the EZ/EC SSBG funds;

(C) A certification by such entities that they will provide periodic reports on the use of the EZ/EC SSBG funds; and

(D) A detailed description of the activities to be financed with the EZ/EC SSBG funds and how such funds will be allocated.

(ii) The EZ/EC SSBG funds may be used to achieve or maintain the following goals, through undertaking one of the below specified program options:

(A) The goal of economic self-support to prevent, reduce or eliminate dependencies, through one of the following program options:

(1) Funding community and economic development services focused on disadvantaged adults and youths, including skills training, transportation services and job, housing, business and financial management counseling;

(2) Supporting programs that promote home ownership, education or other routes to economic independence for low-income families, youth and other individuals;

(3) Assisting in the provision of emergency and transitional shelter for disadvantaged families, youth and other individuals;

(B) The goal of self-sufficiency, including reduction or prevention of dependencies, through one of the following program options:

(1) Providing assistance to non-profit organizations and/or community and junior colleges that provide disadvantaged individuals with opportunities for short-term training courses in entrepreneurial, self employment and other skills that promote individual self-sufficiency, and the interest of the community;

(2) Funding programs to provide training and employment for disadvantaged adults and youths in construction, rehabilitation or improvement of affordable housing, public infrastructure and community facilities; and,

(C) The goal of prevention or amelioration of the neglect, abuse, or exploitation of children and/or adults unable to protect themselves;

and where appropriate the goal of preservation or rehabilitation of families, through one of the following program options:

(1) Providing support for residential or non-residential drug and alcohol prevention and treatment programs that offer comprehensive services for pregnant women, mothers and their children;

(2) Establishing programs that provide activities after school hours, including keeping school buildings open during evenings and weekends for mentor and study programs.

(iii) If the applicant intends to use the EZ/EC SSBG funds for program options not included in paragraph (b) of this section, the strategic plan must indicate how the proposed activities meet the

goals

set forth in paragraph (b) of this section, and the reasons any approved program options were not pursued.

(iv) To the extent that the EZ/EC SSBG funds are used for the program options included in paragraph (b) of this section, the applicant may use EZ/EC SSBG funds for the following activities, in addition to those activities permitted by section 2005 of the Social Security Act:

(A) To purchase or improve land or facilities;

(B) To make cash payments to individuals for subsistence or room and board;

(C) To make wage payments to individuals as a social service;

(D) To make cash payments for medical care; and

(E) To provide social services to institutionalized persons.

(v) The State must obligate the EZ/EC SSBG funds to the applicant in accordance with the Strategic Plan within 2 years from the date of **designation** of the **Empowerment** Zone or **Enterprise** Community.

(vi) The Strategic Plan must indicate how the EZ/EC SSBG funds will be invested and used for the 10-year period of **designation**. The EZ/EC SSBG funds may be used to promote economic independence for low-income residents, such as capitalizing revolving or micro-**enterprise** loan funds for the benefit of residents. The EZ/EC SSBG funds may also be used to create jobs and promote economic opportunity for low-income families and individuals through matching grants, loans, or investments in community development financial institutions.

(13) Indicate how tax benefits for designated **Zones** and **Communities**, State and local resources, existing Federal resources available to the locality and additional Federal resources believed necessary to implement the strategic plan will be utilized within the **Empowerment** Zone or **Enterprise** Community;

(14) Indicate a level of commitment necessary to ensure that these resources will be available to the area upon **designation**;

(15) Identify the Federal resources applied for or for which applications are planned;

(16) Identify private resources and support, including assistance from businesses, non-profit organizations, and foundations, which are available to be leveraged with public resources; and provide assurances that these resources will be made available to the area upon **designation**.

(17) Identify changes requested in Federal rules and regulations

necessary to implement the plan, including specific paperwork or other Federal program requirements that must be altered to permit effective implementation of the strategic plan;

(18) Identify specific regulatory and other impediments to implementing the strategic plan for which waivers are requested, with appropriate citations and an indication whether waivers can be accomplished administratively or require statutory changes;

(19) Demonstrate how State and local governments will reinvent themselves to help implement the plan, by identifying changes that will

be made in State and local organizations, processes and procedures, including laws and ordinances;

(20) Explain how different agencies in State and local governments will work together in new responsive ways to implement the strategic plan;

(21) Identify the specific tasks necessary to implement the plan;

(22) Describe the partnerships that will be established to carry out the plan;

(23) Explain how the plan will be regularly revised to reflect new information and opportunities; and

(24) Identify baselines, benchmarks and goals that will be used in evaluating performance in implementing the plan.

(e) Prohibition against business relocation. The strategic plan may

not include any action to assist any establishment in relocating from an area outside the nominated area to the nominated area, except that assistance for the expansion of an existing business entity through the

establishment of a new branch, affiliate, or subsidiary is permitted, if:

(1) The establishment of a new branch affiliate or subsidiary will not result in a decrease in employment in the area of original location

or in any other area where the existing business entity conducts business operations, and

(2) There is no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operations.

(f) Implementation of strategic plan. The strategic plan may be implemented by the State government(s), local governments, regional planning agencies, non-profit organizations, community-based



organizations, and/or by other nongovernmental entities. Activities included in the plan may be funded from any resource, Federal, State, local, or private, which agrees to provide assistance to the nominated area.

(g) Elements of the strategic plan. A strategic plan may include, but is not limited to, activities that address:

(1) Economic problems, through measures designed to create employment opportunities; support business startup or expansion; or development of community institutions;

(2) Human concerns, through the provision of social services, such as rehabilitation and treatment programs or the provision of training, education or other services within the affected area;

(3) Community needs, such as the expansion of housing stock and homeownership opportunities, efforts to reduce homelessness, to promote

fair housing and equal opportunity, to reduce and prevent crime and improve security in the area; and

(4) Physical improvements, such as the provision or improvement of public infrastructure, or the provision or improvement of recreational, transportation, or other public services within the affected area.

#### Sec. 25.201 Evaluating the strategic plan.

The strategic plan will be evaluated for effectiveness as part of the **designation** process for nominated **rural** areas described in Sec. 25.301 of this part. On the basis of this evaluation, USDA may request additional information pertaining to the plan and the proposed area and may, as part of that request, suggest modifications to the plan, proposed area, or term that would enhance its effectiveness. The effectiveness of the strategic plan will be determined in accordance with the four key principles set forth in Sec. 25.200(c) of this part. USDA will review each plan submitted in terms of the four equally weighted key principles, and of such other elements of these key principles as are appropriate to address the opportunities and problems of each nominated area, which may include:

(a) Economic opportunity. The extent to which businesses, jobs and entrepreneurship will increase within the Zone or Community;

(2) The extent to which residents will achieve a real economic stake in the Zone or Community;

(3) The extent to which residents will be employed in the process

of implementing the plan and in all phases of economic and community development;

(4) The extent to which residents will be linked with employers and jobs throughout the entire area and the way in which residents will receive training, assistance, and family support to become economically self-sufficient;

(5) The extent to which economic revitalization in the Zone or Community interrelates with the broader regional economies; and

(6) The extent to which lending and investment opportunities will increase within the Zone or Community through the establishment of mechanisms to encourage community investment and to create new economic growth.

(b) Sustainable community development. (1) Consolidated planning. The extent to which the plan is part of a larger strategic community development plan for the nominating localities and is consistent with broader regional development strategies;

(2) Public safety. The extent to which strategies such as community policing will be used to guarantee the basic safety and security of persons and property within the Zone or Community;

(3) Amenities and design. The extent to which the plan considers issues of design and amenities that will foster a sustainable community, such as open spaces, recreational areas, cultural institutions, transportation, energy, land and water uses, waste management, environmental protection and the vitality of life of the community;

(4) Sustainable development. The extent to which economic development will be achieved in a manner consistent that protects public health and the environment;

(5) Supporting families. The extent to which the strengths of families will be supported so that parents can succeed at work, provide nurture in the home, and contribute to the life of the community;

(6) Youth development. The extent to which the development of children, youth, and young adults into economically productive and socially responsible adults will be promoted, and the extent to which young people will be provided with the opportunity to take responsibility for learning the skills, discipline, attitude, and initiative to make work rewarding;

(7) Education goals. The extent to which schools, religious

organizations, non-profit organizations, for-profit enterprises, local governments and families will work cooperatively to provide all individuals with the fundamental skills and knowledge they need to become active participants and contributors to their community, and to succeed in an increasingly competitive global economy;

(8) Affordable housing. The extent to which a housing component, providing for adequate safe housing and ensuring that all residents will have equal access to that housing is contained in the strategic plan;

(9) Drug abuse. The extent to which the plan addresses levels of drug abuse and drug-related activity through the expansion of drug treatment services, drug law enforcement initiatives, and community-based drug abuse education programs; and

(10) Equal opportunity. The extent to which the plan offers an opportunity for diverse residents to participate in the rewards and responsibilities of work and service. The extent to which the plan ensures that no business within a nominated Zone or Community will directly or through contractual or other arrangements subject a person to discrimination on the basis of race, color, national origin, gender, handicap or age in its employment practices, including recruitment, recruitment advertising, employment, layoff, termination, upgrading, demotion, transfer, rates of pay or the forms of compensation, or use of facilities. Applicants must comply with the provisions of title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, as implemented by USDA.

(c) Community-based partnerships--(1) Community partners. The extent to which residents of the nominated area have participated in the development of the strategic plan and their commitment to implementing it. The extent to which community-based organizations in the nominated area have participated in the development of the plan, and their record of success measured by their achievements and support for undertakings within the nominated area;

(2) Private and non-profit organizations as partners. The extent to which partnership arrangements include commitments from private and non-profit organizations, including corporations, utilities, banks and other financial institutions, and educational institutions supporting implementation of the strategic plan;

(3) State and local government partners. The extent to which State(s) and local governments are committed to providing support to the strategic plan, including their commitment to ``reinventing'' their

roles and coordinating programs to implement the strategic plan; and

(4) Permanent implementation and evaluation structure. The extent to which a responsible and accountable implementation structure or process has been created to ensure that the plan is successfully carried out and that improvements are made throughout the period of the

Zone or Community's **designation**.

(d) Strategic vision for change--(1) Goals and coordinated strategy. The extent to which The extent to which the strategic plan reflects a projection for the community's revitalization which links economic, human, physical, community development and other activities in a mutually reinforcing, synergistic way to achieve ultimate goals;

(2) Creativity and innovation. The extent to which the activities proposed in the plan are creative, innovative and promising and will promote the civic spirit necessary to revitalize the nominated area;

(3) Building on assets. The extent to which the vision for revitalization realistically addresses the needs of the nominated area in a way that takes advantage of its assets; and

(4) Benchmarks and learning. The extent to which the plan includes performance benchmarks for measuring progress in its implementation, including an ongoing process for adjustments, corrections and building on what works.

#### Sec. 25.202 Submission of nominations for **designation**.

(a) General. A separate nomination for **designation** as an **Empowerment** Zone and/or **Enterprise** Community must be submitted for each

**rural** area for which such **designation** is requested. The nomination shall be submitted in a form to be prescribed by USDA in the Notice Inviting Applications published in the Federal Register, and must contain complete and accurate information.

(b) Certifications. Certifications must be submitted by the State(s) and local government(s) requesting **designation** stating that:

(1) The nominated area satisfies the boundary tests of Sec. 25.100(d) of this part;

(2) The nominated area is one of pervasive poverty, unemployment, and general distress, as prescribed by Sec. 25.102 of this part;

(3) The nominated area satisfies the poverty rate criteria set forth in Sec. 25.103 of this part;

(4) The nominated **rural** area contains no portion of an area that is

either already designated as an **Empowerment** Zone and/or **Enterprise** Community or is otherwise included in any other area nominated for **designation** as an **Empowerment** Zone and/or **Enterprise** Community;

(5) Each nominating governmental entity has the authority to:

(i) Nominate the **rural** area for **designation** as an **Empowerment** Zone and/or **Enterprise** Community;

(ii) Make the State and local commitments required by Sec. 25.200(d) of this part; and

(iii) Provide written assurances satisfactory to the Secretary that these commitments will be met;

(6) Provide assurances the amounts provided to the State for the area under section 2007 of title XX of the Social Security Act will not

be used to supplant Federal or non-Federal funds for services and activities which promote the purposes of section 2007;

(7) Provide that the nominating governments or corporations agree to make available all information requested by USDA to aid in the evaluation of progress in implementing the strategic plan and reporting

on the use of **Empowerment** Zone/**Enterprise** Community Social Service Block Grant funds; and

(8) Provide assurances that the nominating State(s) agrees to distribute the **Empowerment** Zone/**Enterprise** Community Social Service Block Grant funds in accordance with the strategic plan submitted for the designated Zone or Community.

(c) Maps and area description. Maps and general description of the nominated area shall accompany the nomination request.

## Subpart D--**Designation** Process

Sec. 25.300 USDA action and review of nominations for **designation**.

(a) Establishment of submission procedures. USDA will establish a time period and procedure for the submission of application as **Empowerment Zones** or **Enterprise Communities**, including submission deadlines and addresses, in a Notice Inviting Applications, to be published in the Federal Register.

(b) Acceptance for processing. USDA will accept for processing those applications as **Empowerment Zones** or **Enterprise Communities** which

USDA determines have met the criteria required under this part. USDA

will notify the State(s) and local government(s) whether or not the nomination has been accepted for processing. The criteria for acceptance for processing are as follows:

(1) The application as an **Empowerment** Zone or **Enterprise** Community must be received by USDA on or before the close of business on the date established by the Notice Inviting Applications published in the Federal Register. The applications must be complete and must be accompanied by a strategic plan, as required by Sec. 25.200(c) and the certifications required by Sec. 25.202(b).

(2) The application as an **Empowerment** Zone or **Enterprise** Community must be complete and must be accompanied by a strategic plan, as required by Sec. 25.200(c) of this part, and the certifications required by Sec. 25.202(b) of this part.

(c) Evaluation of applications. In the process of reviewing each application accepted for processing, USDA may undertake a site visit (s) to any nominated area to aid in the process of evaluation.

(d) Modification of the strategic plan, boundaries of nominated **rural** areas, and/or period during which **designation** is in effect. Subject to the limitations imposed by Sec. 25.100 of this part, USDA may request additional information pertaining to the plan and proposed area and may, as a part of that request, suggest modifications to the plan that would enhance its effectiveness.

(e) Publication of designations. Final determination of the boundaries of areas and the term for which the designations will remain in effect will be made by the Secretary. Announcements of those nominated areas designated as **Empowerment Zones** or **Enterprise Communities** will be made by publication of a Notice in the Federal Register.

Sec. 25.301 Selection factors for **designation** of nominated **rural** areas.

In choosing among nominated **rural** areas eligible for **designation**, the Secretary shall consider:

(a) The effectiveness of the strategic plan, in accordance with the key principles set out in Sec. 25.201.

(b) The effectiveness of the assurances made pursuant to Sec. 25.200(a)(2) that the strategic plan will be implemented.

(c) The extent to which an application proposes activities that are creative and innovative.

(d) Such other factors as established by the Secretary, which include the degree of need demonstrated by the nominated area for assistance under this part and the diversity within and among the nominated areas. If other factors are established by USDA, a Federal Register Notice will be published identifying such factors, along with an extension of the application due date if necessary.

#### Sec. 25.302 Number of **Rural Empowerment Zones** and **Enterprise Communities**.

The Secretary may designate up to 3 **rural Empowerment Zones** and up to thirty **rural Enterprise Communities**.

#### Subpart E--Post-**Designation** Requirements

#### Sec. 25.400 Reporting.

USDA will require periodic reports for the **Empowerment Zones** and **Enterprise Communities** designated pursuant to this part. These reports will identify the community, local government and State actions which have been taken in accordance with the strategic plan. In addition to these reports, such other information relating to designated **Empowerment Zones** and **Enterprise Communities** as USDA shall request from time to time shall be submitted promptly. On the basis of this information and of on-site reviews, USDA will prepare and issue periodic reports on the effectiveness of the **Empowerment Zones/Enterprise Communities** Program.

#### Sec. 25.401 Periodic performance reviews.

USDA will regularly evaluate the progress in implementing the strategic plan in each designated **Empowerment Zone** and **Enterprise Community** on the basis of performance reviews to be conducted on site and using other information submitted. USDA may also commission evaluations of the **Empowerment Zone** program as a whole by an important third party. Where not prevented by State law, nominating State

governments must provide the timely release of data requested by USDA for the purposes of monitoring and assisting the success of

### **Empowerment**

### **Zones and Enterprise Communities.**

#### Sec. 25.402 Validation of **designation**.

(a) Reevaluation of designations. On the basis of the performance review described in Sec. 25.401 of this part, and subject to the provisions relating to the revocation of **designation** appearing at Sec. 25.403 of this part, USDA will make findings as to the continuing eligibility for the validity of the **designation** of any **Empowerment Zone**

or **Enterprise Community**. Determinations of whether any designated **Empowerment Zone** or **Enterprise Community** remains in good standing shall

be promptly communicated to all Federal agencies providing assistance or administering programs under which assistance can be made available in such Zone or Community.

(b) Modification of **designation**. Based on a **rural Zone** or Community's success in carrying out its strategic plan, and subject to the provisions relating to revocation of **designation** appearing at Sec. 25.403 of this part and the requirements as to the number, maximum

population and other characteristics of **rural Empowerment Zones** set forth in Sec. 25.100 of this part, the Secretary may modify designations by reclassifying **rural Empowerment Zones** as **Enterprise Communities** or **Enterprise Communities** as **Empowerment Zones**.

#### Sec. 25.403 Revocation of **designation**.

(a) Basis for revocation. The Secretary may revoke the **designation** of a **rural** area as an **Empowerment Zone** or **Enterprise Community** if the Secretary determines on the basis of the periodic monitoring described in Sec. 25.401 of this part, that the applicant of the State(s) or local government(s) in which the **rural** area is located:

- (1) Has modified the boundaries of the area;
- (2) Has failed to make satisfactory progress in achieving the benchmarks set forth in the strategic plan; or
- (3) Has not complied substantially with the strategic plan.

(b) Warning letter. Before revoking the **designation** of a **rural**



area

as an **Empowerment** Zone or **Enterprise** Community, the Secretary will issue a letter of warning to the applicant and the nominating State(s) and local government(s):

(1) Advising that the Secretary has determined that the applicant and/or the nominating local government(s) and/or State(s) has:

(i) modified the boundaries of the area; or

(ii) is not complying substantially with, or has failed to make satisfactory progress in achieving the benchmarks set forth in the strategic plan prepared pursuant to Sec. 25.200(d) of this part; and

(2) Requesting a reply from all involved parties within 90 days of the receipt of this letter of warning.

(c) Notice of revocation. After allowing 90 days from the date of receipt of the letter of warning for response, and after making a determination pursuant to paragraph (a) of this section, the Secretary may issue a final notice of revocation of the **designation** of the **rural** area as an **Empowerment** Zone or **Enterprise** Community.

(d) Notice to affected Federal agencies. USDA will notify all affected Federal agencies providing assistance in a **rural Empowerment** Zone or **Enterprise** Community of its determination to revoke any **designation** pursuant to this section or to modify a **designation** pursuant to Sec. 25.402 of this part.

## Subpart F--Special Rules

### Sec. 25.500 Indian reservations.

No **rural Empowerment** Zone or **Enterprise** Community may include any area within an Indian reservation.

### Sec. 25.501 Governments.

If more than one State or local government seeks to nominate an area under this part, any reference to or requirement of this part shall apply to all such governments.

### Sec. 25.502 Nominations by economic development corporations.

Any **rural** area nominated by an economic development corporation chartered by a State and qualified to do business in the state in

which  
it is located, shall be treated as nominated by a State and local governments.

#### Sec. 25.503 Use of census data.

Population and poverty rate data shall be determined by the 1990 Census Data.

#### Sec. 25.504 **Rural** areas.

(a) What constitutes ``**rural**``. A **rural** area may consist of any area that lies outside the boundaries of a Metropolitan Area, as designated by the Office of Management and Budget, or, as an area that is primarily **rural** and has at least 50 percent of the population of the nominated area residing outside of a Metropolitan Area. For the purpose of this section, the 1993 Census Bureau definition of Metropolitan Area is applied.

(b) Exceptions to the definition. On a case by case basis, the Secretary will grant requests for waiver from the above definition of ``**rural**`` upon a showing of good cause. Applicants seeking to apply for a **rural designation** who do not satisfy the above subsection, must submit a request for waiver in writing to the **Rural** Development Administration, **Empowerment** Zone Office, Department of Agriculture, AG Box 3202, 14th Street and Independence Avenue SW., Washington, DC 20250-3200. Requests must include:

- (1) The name, address and daytime phone number of the contact person for the applicant seeking the waiver; and
- (2) Sufficient information regarding the area that would support the infrequent exception from the definition.

(c) The waiver process. The Secretary, in consultation with the Department of Commerce, will have discretion to permit **rural** applications for **communities** that do not meet the above **rural** criteria.

Dated: January 12, 1994.  
Bob J. Nash,  
Under Secretary, Small Community and **Rural** Development.

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